

Docket No.: 61352-046



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of : Customer Number: 20277
Yasuo TAKEBE, et al. : Confirmation Number: 5764
Serial No.: 10/696,505 : Group Art Unit: 1745
Filed: October 30, 2003 : Examiner: Raymond Alejandro
For: METHOD OF OPERATING FUEL CELL SYSTEM AND FUEL CELL SYSTEM

RESPONSE TO RESTRICTION REQUIREMENT

Mail Stop Restriction Requirement
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This is in response to the Restriction Requirement mailed June 20, 2006 setting a shortened one-month statutory period for reply. Therefore, a response is due Monday, August 21, 2006, with a request for and payment of, a one-month extension of time.

The Examiner has divided the claims into two allegedly patentably distinct Groups:

- I. Claims 1-10, 17-21, 63, 81-84, 94-95 and 102-106, drawn to fuel cell systems, classified in class 429, subclass 22
- II. Claims 11-16, 22-62, 64-80, 85-93 and 96-101 drawn to methods of operating fuel cells, classified in class 429, subclass 13

Additionally, the Examiner requires the election of a species. Specifically, the Examiner requires that the one of eight allegedly distinct and non-overlapping species depicted in each of Figures 6, 7, 9, 11, 12, 13, 14 and 15 be elected.

Applicants elect to prosecute the claims of **Group II** and the apparatus depicted in Figure 12 for prosecution in this application, *with traverse*.

Applicants respectfully assert that the restriction requirement is improper. The elected claims relate to methods of operating a fuel cell whereas the eight allegedly distinct and non-overlapping species depicted in each of Figures 6, 7, 9, 11, 12, 13, 14 and 15 show various fuel cells envisaged by the invention. In fact, the claimed methods are best reflected in Figures 20-27 and most preferably Figure 27. Although Applicants submit that the apparatus depicted in Figure 12 constitutes the invention's preferred fuel cell embodiment, the methods encompassed by the elected claims are not limited to being carried out by that particular fuel cell configuration.

As such, Applicants request the Examination of claims 11-16, 22-62, 64-80, 85-93 and 96-101 on the merits irrespective of the eight allegedly distinct and non-overlapping species depicted in each of Figures 6, 7, 9, 11, 12, 13, 14 and 15.

CONCLUSION

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

McDermott Will & Emery LLP



Thomas A. Haag, Ph.D., Esq.
Registration No. 47,621

600 13th Street, N.W.
Washington, DC 20005-3096
Phone: 202.756.8000
Facsimile: 202.756.8087
Date: August 21, 2006

**Please recognize our Customer No. 20277
as our correspondence address.**